



**LEGAL DEPARTMENT INTELLECTUAL PROPERTY  
KINETIC CONCEPTS, INC.  
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SAN ANTONIO, TX 78265-9508**

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**JUL 19 2007**

**OFFICE OF PETITIONS**

In re Application of	:
Cesar Z. Lina et al	:
Application No. 10/600,061	: DECISION ON PETITION
Filed: June 20, 2003	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. VAC.567.1.US	:

This is a decision on the petition under 37 CFR 1.78(a)(6), filed March 6, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to prior-filed provisional Application No. 60/128,567, filed April 9, 1999.

The petition is **DISMISSED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

- (1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) and (iii) to the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition fails to comply with item (1). In this regard, the petition is not accompanied by an amendment, which amends the first line of the specification following the title to include a reference to the prior-filed applications. The amendment should be made in a separate paper and comply with the provisions of 37 CFR 1.121, 1.52, or 1.4(c). Note that 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with § 1.52, directing that specified amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in this case, the claim for priority), must commence on a separate physical sheet. 37 CFR 1.4(c) states that

each distinct subject must be contained in a separate paper since different matters may be considered by different branches of the United States Patent and Trademark Office.

Before the petition can be granted, a renewed petition under 37 CFR 1.78(a)(2), along with a proper reference to the prior-filed applications as noted above, must be submitted.

Further correspondence with respect to this matter should be addressed as follows:

By mail:                      Mail Stop PETITION  
                                    Commissioner for Patents  
                                    Post Office Box 1450  
                                    Alexandria, VA 22313-1450

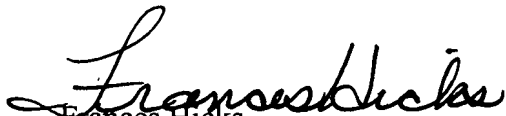
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                                    Alexandria, VA 22314

By fax:                        (571) 273-8300  
                                    ATTN: Office of Petitions

Correspondence regarding this decision may also be filed through the Electronic Filing System of the USPTO.

To expedite consideration, petitioner may wish to contact the undersigned regarding the filing of the renewed petition under 37 CFR 1.78(a)(6).

Any questions concerning this matter may be directed to the undersigned at (571) 272-3218.

  
Frances Hicks  
Petitions Examiner  
Office of Petitions